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**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-05-131**APPLICANT:** Mark and Karin Ball**AGENT:** Teak Nichols**PROJECT LOCATION:** 33261 Decker School Road, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a 1,440 sq. ft., 2-story, 21.5 ft. high accessory structure consisting of a 720 sq. ft. two car garage with second floor 720 sq. ft. guest unit, attached exterior stairway to guest unit; new 50 ft. long driveway extending from the existing driveway; and 12 cubic yards of cut grading to be exported to disposal site located outside of the Coastal Zone.

Existing Lot Area:	5 acres
Existing Building Coverage:	4,600 sq. ft.
Proposed Building Coverage	5,320 sq. ft.
Paved Coverage:	24,200 sq. ft.
Landscape Coverage:	130,680 sq. ft.
Max. Ht. Above Finish Grade:	21.5 feet
Proposed Parking Spaces:	2

LOCAL APPROVALS RECEIVED: : Los Angeles County Regional Planning Approval in Concept dated 6/29/05; Los Angeles County Department of Health Services Approval in Concept dated 6/6/06; Los Angeles County Fire Department Approval dated 9/12/05; Preliminary Fuel Modification Plan approved by the Los Angeles County Fire Department dated 9/26/05.

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit No. SF-79-5902 (Ball); Geologic and Geotechnical Engineering Investigation Report prepared by Gold Coast Geoservices, Inc. dated February 2, 2006.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **ELEVEN (11) SPECIAL CONDITIONS** regarding (1) geologic recommendations, (2) drainage and polluted runoff control plans, (3) landscaping and erosion control plans, (4) assumption of risk, (5) removal of natural vegetation, (6) future development restriction, (7) lighting restrictions, (8) structural appearance, (9) disposal of excavated material, (10) deed restriction, and (11) condition compliance.

The project site is a 5 acre parcel (APN 4472-019-029) located north of Decker School Road, approximately 0.25 miles west of Decker Road in the Santa Monica Mountains. The site is surrounded by residentially developed properties on all sides. The property is located within the Decker Canyon Watershed and approximately 600 ft. (and separated by adjacent residentially developed property immediately to the north) from the southern property boundary of National Park Service Property, which is part of the Santa Monica Mountains National Recreation Area (SMMNRA).

The subject property is currently developed with an existing 6,200 sq. ft. single family residence, with a detached 2-car garage. The applicant proposes to construct a 1,440 sq. ft., 2-story, 21.5 ft. high accessory structure consisting of a 720 sq. ft. two car garage with a second floor 720 sq. ft. guest unit; an attached exterior stairway to access the guest unit; a 50 foot long concrete driveway extending from the existing driveway, and 12 cubic yards of cut/excavation for the garage to be exported to a landfill disposal site located outside of the Coastal Zone. In addition, the project includes the request for after-the-fact approval for a second as-built septic system located on the property which the applicant is proposing to utilize for the new accessory structure.

The proposed accessory structure will be located on a portion of the property that has been previously cleared of all native vegetation as a result of the required fuel modification associated with the existing single family residence on the site (which is located approximately 88 ft. to the north of the proposed structure) and will not require the removal of any native vegetation or result in any adverse impacts to any environmentally sensitive habitat areas (ESHA). In addition, the 200 ft. fuel modification zone that is required by the Los Angeles County Fire Department for the proposed accessory structure will be located entirely within the overlapping fuel modification zone for both the existing residence on the subject site as well as an existing residence located approximately 180 ft. to the southeast on the adjacent neighboring property. As such, neither the proposed accessory structure nor its required fuel modification will result in the loss of any ESHA on or off the subject site.

In addition, it appears that development has occurred on the subject site without the required coastal development permits including construction of a horse corral, a tack shed, a hay shed, a water storage tank, and a second septic system. The applicant is requesting after-the-fact approval of the as-built septic tank and leach field; however, other unpermitted development on the site is not included or addressed as part of this proposed application. The Commission's enforcement division will evaluate further actions to address the unpermitted development.

The standard of review for the proposed permit application is the Chapter Three policies of the Coastal Act. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-05-131 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the "Geologic and Geotechnical Engineering and Investigation Report for Proposed Detached Garage/Guest Suite, 33261 Decker School Road, Malibu Area, Los Angeles County," prepared by Gold Coast Geoservices, Inc. on February 2, 2006. These recommendations shall be incorporated into all final design and construction, including recommendations concerning foundations, grading, and drainage, and must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Drainage and Polluted Runoff Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, two sets of final drainage and runoff control plans, including supporting calculations. The final plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's

surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Landscaping and Erosion Control Plans

Prior to issuance of a Coastal Development Permit, the applicant shall submit two sets of final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- (2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (3) The permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (4) The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

4. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

5. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-05-131. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the

exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 4-05-131. Accordingly, any future improvements to the garage/guest unit (including, but not limited to, additions to the structure, conversion of the detached garage into habitable space, or the addition of any interior access or stairway between the first floor garage and the second floor guest unit), shall require an amendment to Coastal Development Permit No. 4-05-131 from the Commission or shall require additional coastal development permits from the Commission or from the applicable certified local government.

6. Lighting Restrictions

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
 - 1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
 - 2) Security lighting attached to the structure shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
 - 3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

7. Structural Appearance

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of the structure authorized by the approval of Coastal Development Permit 4-05-006. The palette samples shall be presented in a format not to exceed 8 1/2" x 11" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones). Including shades of green, brown and gray with no white or light shades, galvanized steel, and no bright tones. All windows shall be comprised of non-glare glass.

The approved structure shall be colored with only the colors and materials authorized pursuant to this special condition. Alternative colors or materials for future repainting,

resurfacing, or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-05-131 if such changes are specifically authorized by the Executive Director as complying with this special condition.

8. Removal of Excess Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

9. Deed Restriction

Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to these permits, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of these permits as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

10. Condition Compliance

Within 180 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 1,440 sq. ft., 2-story, 21.5 ft. high accessory structure consisting of a 720 sq. ft. two car garage with a second floor 720 sq. ft. guest unit; an attached exterior stairway to the guest unit; a 50 foot long driveway extending from the existing driveway, and 12 cubic yards of cut/excavation for the garage to be exported to a landfill disposal site located outside of the Coastal Zone (**Exhibits 3-5**).

The subject site is a 5 acre parcel (APN 4472-019-029) located north of Decker School Road, approximately 0.25 miles west of Decker Road (Highway 23) in the western portion of the Santa Monica Mountains. The property is surrounded by residentially developed properties on all sides and it is located less than 600 feet (and separated by a residentially developed adjacent property to the north) from the southern boundary of National Park Service Property, which is part of the Santa Monica Mountains National Recreation Area (SMMNRA). The property is also located within the Decker Canyon watershed (**Exhibits 1, 2, & 7**).

The subject site has been primarily cleared of native vegetation and the proposed project will not result in any additional removal of environmentally sensitive habitat area (ESHA) for fuel modification around the proposed garage/guest unit. Additionally, the required fuel modification area for the proposed garage/guest unit overlaps with the existing fuel modification zones for both the existing residence on the subject property (which is located 88 ft. to the north of the proposed accessory structure) and the existing residence located approximately 180 ft. to the southeast on an adjacent neighboring parcel. In addition, no oak trees are present on the property, and no trees will be removed as part of this proposed project. However, the National Park Service Property, located about 600 feet to the north of the subject property, is undeveloped and vegetated with a large contiguous community of chaparral which is considered an environmentally sensitive habitat area.

The site has been subject to previous commission action. The Commission previously approved a 2-story, 4,800 square-foot single family dwelling with a detached 2-car garage and a septic system on the subject site pursuant to Coastal Development Permit No. SF-79-5902, approved with no conditions in 1979 (**Exhibit 6**). However, other development has occurred on the subject site without the required coastal development permit including a corral, a tack shed, a hay shed, a water storage tank, a well, and a second septic system. Commission staff have reviewed historic aerial photographs and the permit history for the subject site and determined that the above referenced unpermitted development was constructed between 1979 and 2001. The applicant has indicated to staff that the unpermitted second septic system was installed to service a previously existing unpermitted residential trailer which has since been destroyed by fire. This application includes the request for after-the-fact approval of the unpermitted septic system. However, other unpermitted development on the site (including, but not limited to, a corral, tack shed, hay shed, water storage tank, well) is not addressed by this application. The Commission's enforcement division will evaluate further actions to address this matter.

B. Geologic and Wildfire Hazard

The proposed development is located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Section 30253 of the Coastal Act states in pertinent part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a "Geologic and Geotechnical Engineering Investigation Report for Proposed Detached Garage/Guest Suite, 33261 Decker School Road, Malibu Area, Los Angeles County," prepared by Gold Coast Geoservices, Inc. on February 2, 2006. This report addresses the geologic conditions on the site, including drainage, subsurface conditions, groundwater, landslides, faulting, and seismicity.

According to the geology report, site drainage is by topographically controlled sheetflow runoff to the south and southeast. The subject property consists of gentle to moderately sloping hillside terrain. The garage/guest unit will be build on a roughly graded pad, with "cut" embankments ascending at a 2:1 slope ratio along the westerly and southerly sides of the pad. The site is underlain by volcanic bedrock, comprised of basaltic flow breccia. The bedrock is exposed at or near the ground surface in the building area and on the slopes ascending from the building area. Artificial fill was found in the planned building area from a depth of 6-12 inches and along the southeasterly side of the project area with a dept of 3 feet, consisting of firm sandy clay to clayey sand.

The geologic consultants have found the geology of the proposed project site to be suitable for the construction of a garage/guest unit. The geologic and geotechnical engineering consultants in their geologic and engineering report state that:

It is the opinion of the undersigned that the proposed grading and structures will be safe against hazard from landslide, settlement, or slippage, and that the proposed grading and construction will have no adverse geologic effect on offsite properties.

The engineering geologic and geotechnical consultants conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The geologic and geotechnical report contains several recommendations to be incorporated into project construction, design, drainage, foundations, and sewage disposal to ensure the stability and geologic safety for the proposed project site and adjacent properties.

The submitted geologic report contains several recommendations to be incorporated into project construction, grading and earthwork, foundations, sewage disposal, and drainage to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition One (1)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic report into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of construction. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions Two (2) and Three (3)**.

Further, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition Three (3)** requires the applicant to submit landscaping plans for landscaping the portions of the project site that are disturbed as a result of this project. **Special Condition Three (3)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results

in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Three (3)**.

In addition, to ensure that excess excavated material is transported off site so as not to contribute to unnecessary landform alteration, the commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept material, as specified in **Special Condition Eight (8)**.

Further, the proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, *Terrestrial Vegetation of California*, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Four (4)**, assumption of risk, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition Four (4), the applicants also agree to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with §30253 of the Coastal Act.

C. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

The project site is located in the Decker Canyon Watershed area. While no development is proposed in drainages onsite, the proposed development will result in an increase in impervious surface due to 2000 sq. ft. of paved driveway and the footprint of the proposed accessory structure itself, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms,

rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two (2)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Finally, the proposed development includes the request for after-the-fact approval for an as-built system to serve the garage/guest unit. The County of Los Angeles Environmental Health Department has given in-concept approval of the use of the existing septic system and has determined that the system meets the requirements of the Plumbing Code. The Commission has found that conformance with the provisions of the Plumbing Code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. Visual Resources

Section **30251** of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area. The Commission is required to review the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public.

The subject property is located in an area of gentle to moderately sloping hillside terrain in the southwest Santa Monica Mountains and located about 600 feet from the southern boundary of National Park Service Property. The project will be visible from public trails and open land located on the nearby National Park Service Property to the north. The structures will not block public views of the ocean or mountains.

The applicant proposes to construct a 1,440 sq. ft., 2-story, 21.5 ft. high accessory structure consisting of a 720 sq. ft. two car garage with second floor 720 sq. ft. guest unit; attached exterior stairway to guest unit; new 50 ft. long driveway extending from the existing driveway, and 12 cubic yards of cut grading to be exported to an appropriate disposal site located outside of the Coastal Zone. The applicant's design also utilizes existing graded and flat areas to the extent feasible, and will only require minimal grading. The Commission finds, therefore, that the project has been sited and designed to minimize landform alteration to the extent feasible.

Given its location, the proposed development will likely impact views from public roads and trails, despite being sited near existing and approved single-family residences of the same size and being moderate in size and height. The visual impact of the proposed structure can be minimized by requiring these structures be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Seven (7)**.

Visual impacts associated with proposed grading, and the structures themselves, can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Three (3)** requires the applicant to ensure that areas disturbed on site as a result of this project are revegetated with species that are visually compatible with the native flora of surrounding areas. Implementation of Special Condition Three (3) will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition Three (3) also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic roads and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition Six (6)** limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the nighttime rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a detached accessory structure, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the detached accessory structure (garage/guest house), which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition Five (5)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, **Special Condition Nine (9)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alternation of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Development and Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing

adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site with a primary residence intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a two story, detached 1,440 sq. ft. accessory structure that will consist of a 720 sq. ft. garage on the first level and a 720 sq. ft. guest unit on the second level.

Based on the requirements of Coastal Act Section 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in the area and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit-- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure

consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu/Santa Monica Mountains Land Use Plan 1986, Policy 271).

In this case, the applicant proposes to construct a 720 sq. ft. guest unit on the second floor of the detached accessory structure. The Commission finds that although the accessory structure itself (including the first floor garage) will be larger than 750 sq. ft., the proposed second floor guest unit alone conforms to the Commission's past actions, allowing a maximum of 750 square feet for a second dwelling unit in the Malibu and Santa Monica Mountains area. However, the Commission also finds that any significant expansion of the proposed guest unit (including conversion of the first floor garage to habitable area) would increase the size of the guest unit beyond the maximum of 750 sq. ft. and would constitute a violation of this coastal development permit. Therefore, Special Condition Five (5) has been required to ensure that the guest unit conforms with the maximum 750 sq. ft. guidance and that any additions or improvements that could further intensify the use of this guest unit or second residential unit will be reviewed by the Commission pursuant to a new coastal development permit application or amendment application. **Special Condition Nine (9)** further requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30250 and 30252 of the Coastal Act.

F. Unpermitted Development

Development has occurred on the subject property without the required coastal development permits prior to submission of this coastal development permit application, including but not limited to a corral, a tack shed, a hay shed, a water storage tank, a well, and a second septic system. These unpermitted developments were not authorized by the previously issued Coastal Development Permit No. SF-79-5902 and Commission records indicate that no other coastal development permits have been issued for any of the above referenced development. A review of historic aerial photographs by Commission staff has confirmed that the above referenced development was constructed on site between 1979 and 2001.

The subject permit application addresses only some unpermitted development on the property, including the as-built septic system. The applicant is requesting after-the-fact approval for the as-built septic system in order to serve the proposed new garage/guest unit. However, the other unpermitted development on site, including but not limited to the corral, tack shed, hay shed, and the water storage tank are not addressed by this application. Therefore, the Commission's Enforcement Division will evaluate further actions to address the unpermitted development.

In addition, in order to ensure that the portion of the proposed amendment that involves unpermitted development, to be approved after-the-fact by this application, is resolved in a timely manner, including the septic tank and leach field, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions as a prerequisite to the issuance of this permit, as required by **Special Condition Ten (10)** within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause. Only as conditioned, is the proposed development consistent with the Coastal Act.

Although development has taken place prior to submission of this permit application, consideration of this application by the commission has been based solely on Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any future development undertaken on the subject site without a coastal permit.

G. Local Coastal Program

Section 30604 of the Coastal Act states:

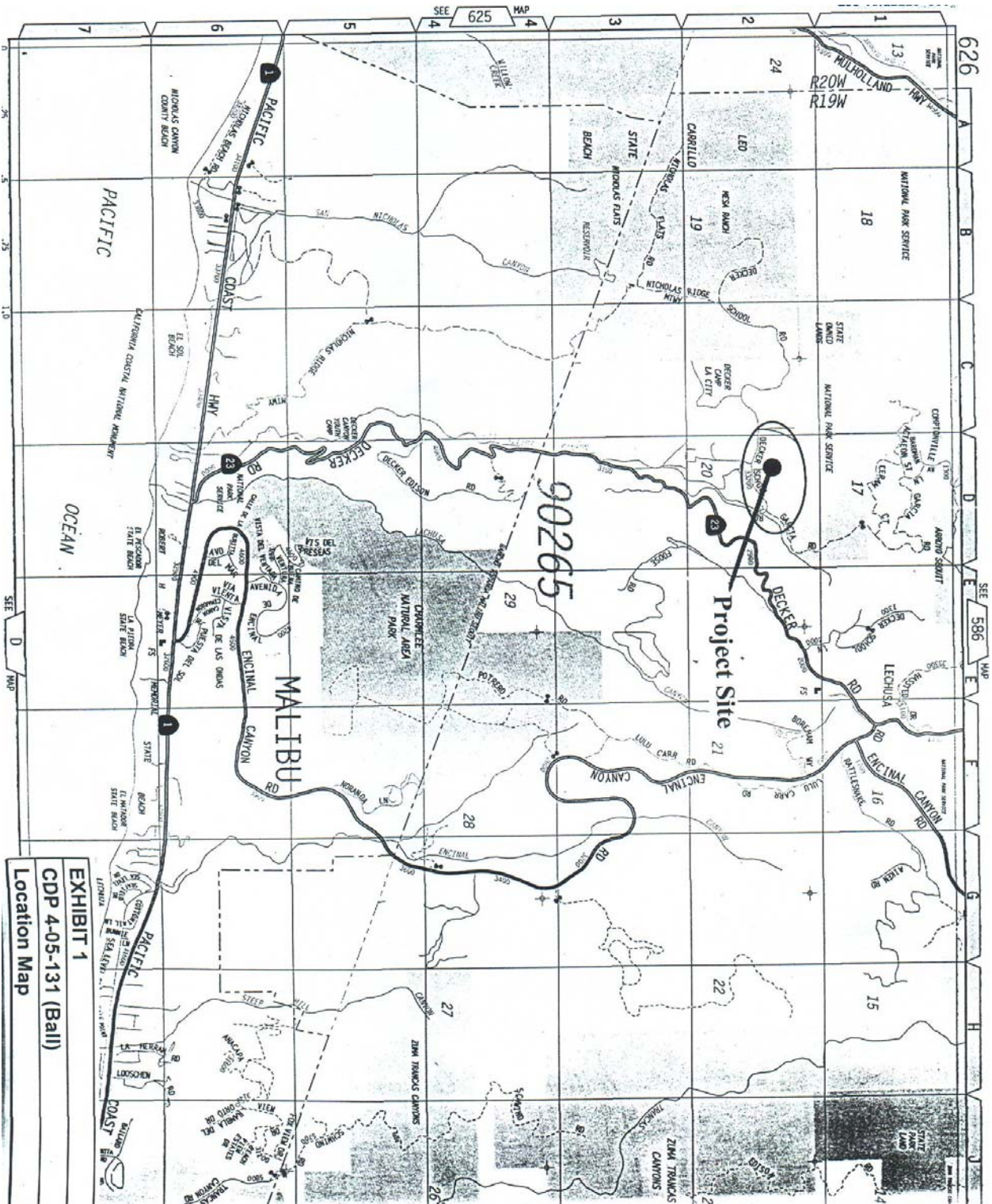
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed developments will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed developments, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

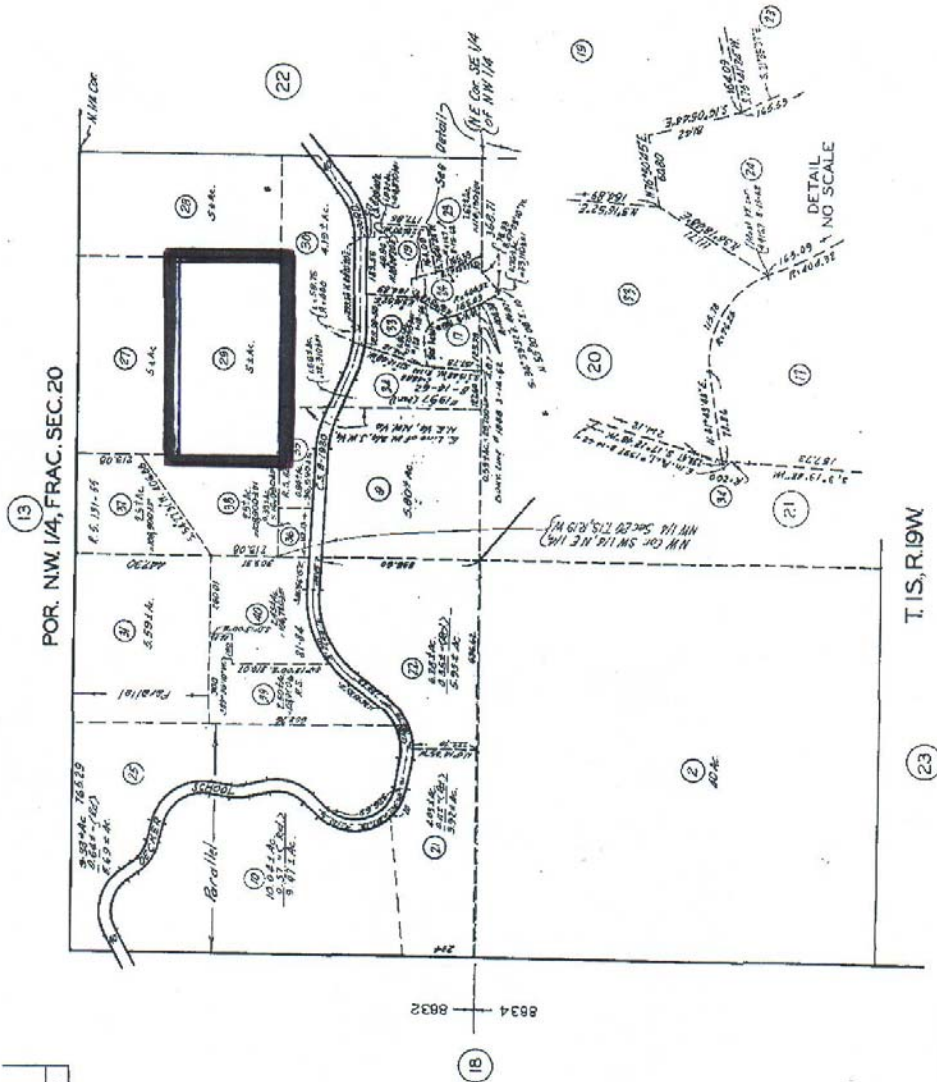
The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.



11-23-68	Revised
3-16-65	12-16-50
4-10-69	8-12-5
4-22-65	1-2-6
4-14-65	4-4-52
4-11-62	8-28-62
	10-18-64
	2-8-53
	8-12-69F
	6-8-52
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	782309

County of Los Angeles: Rick Auerbach, Assessor

4472	19
SCALE 1" = 300'	



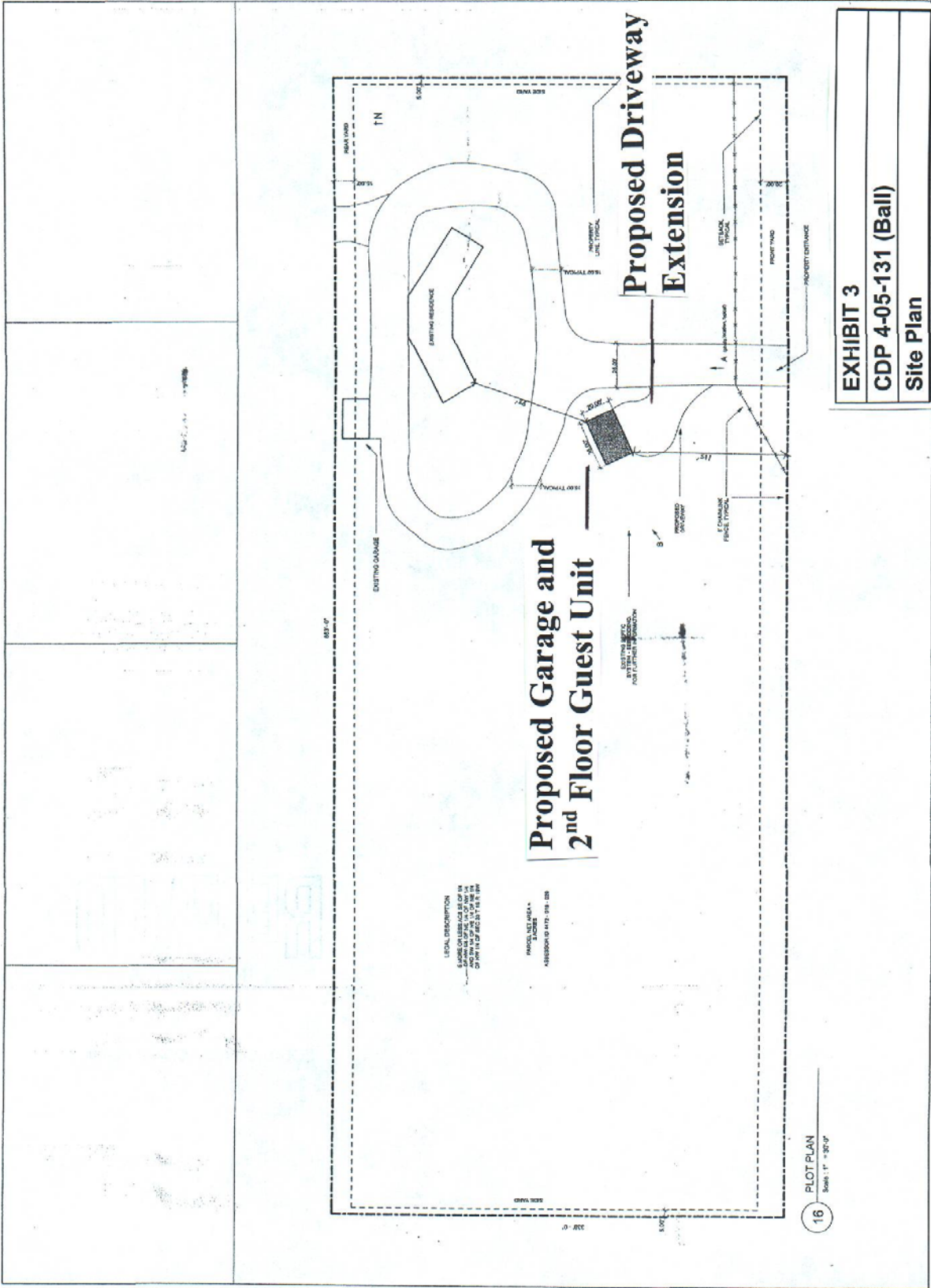
FOR PREV. ASSM'T. SEE:
4472 -19

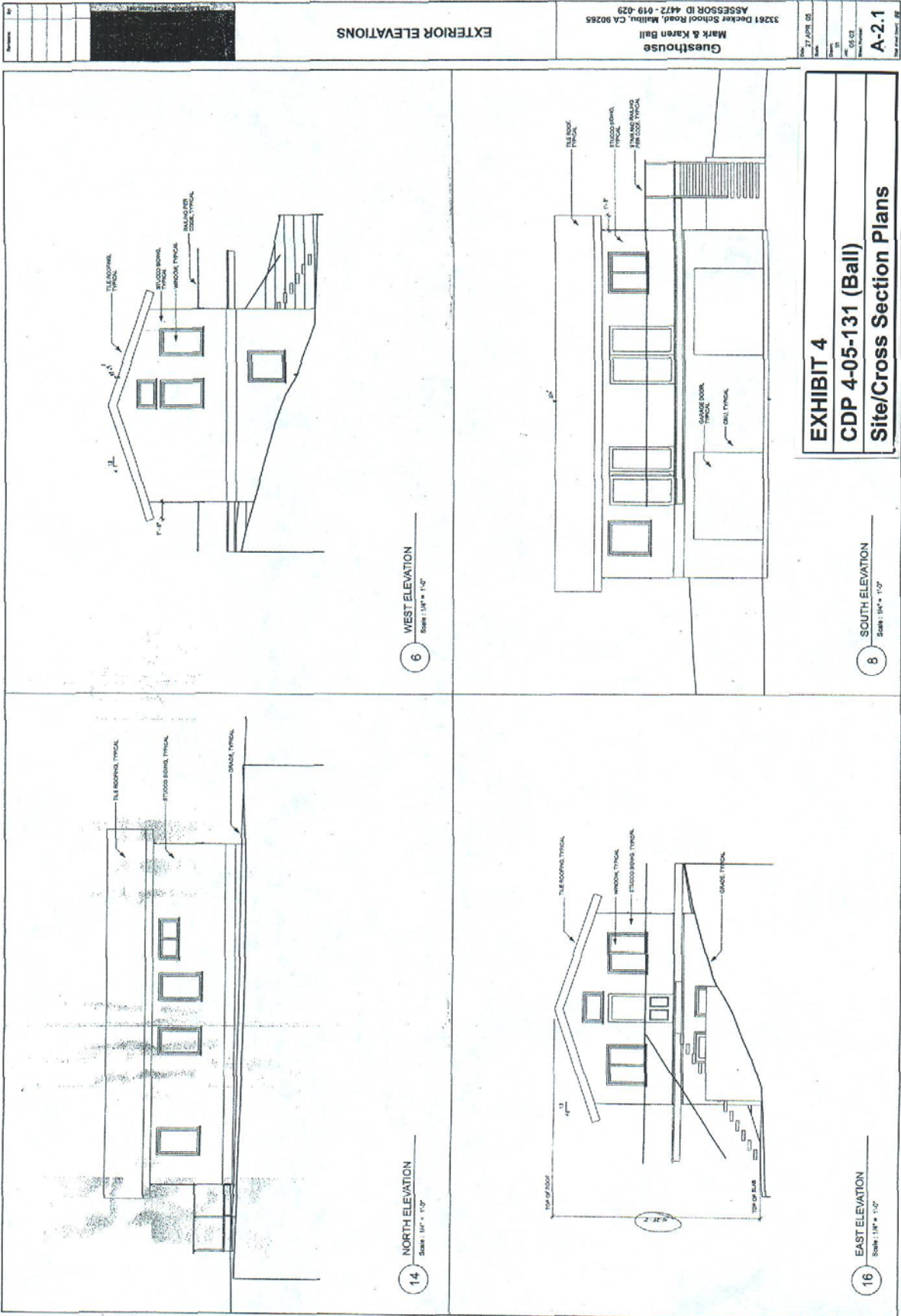
ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

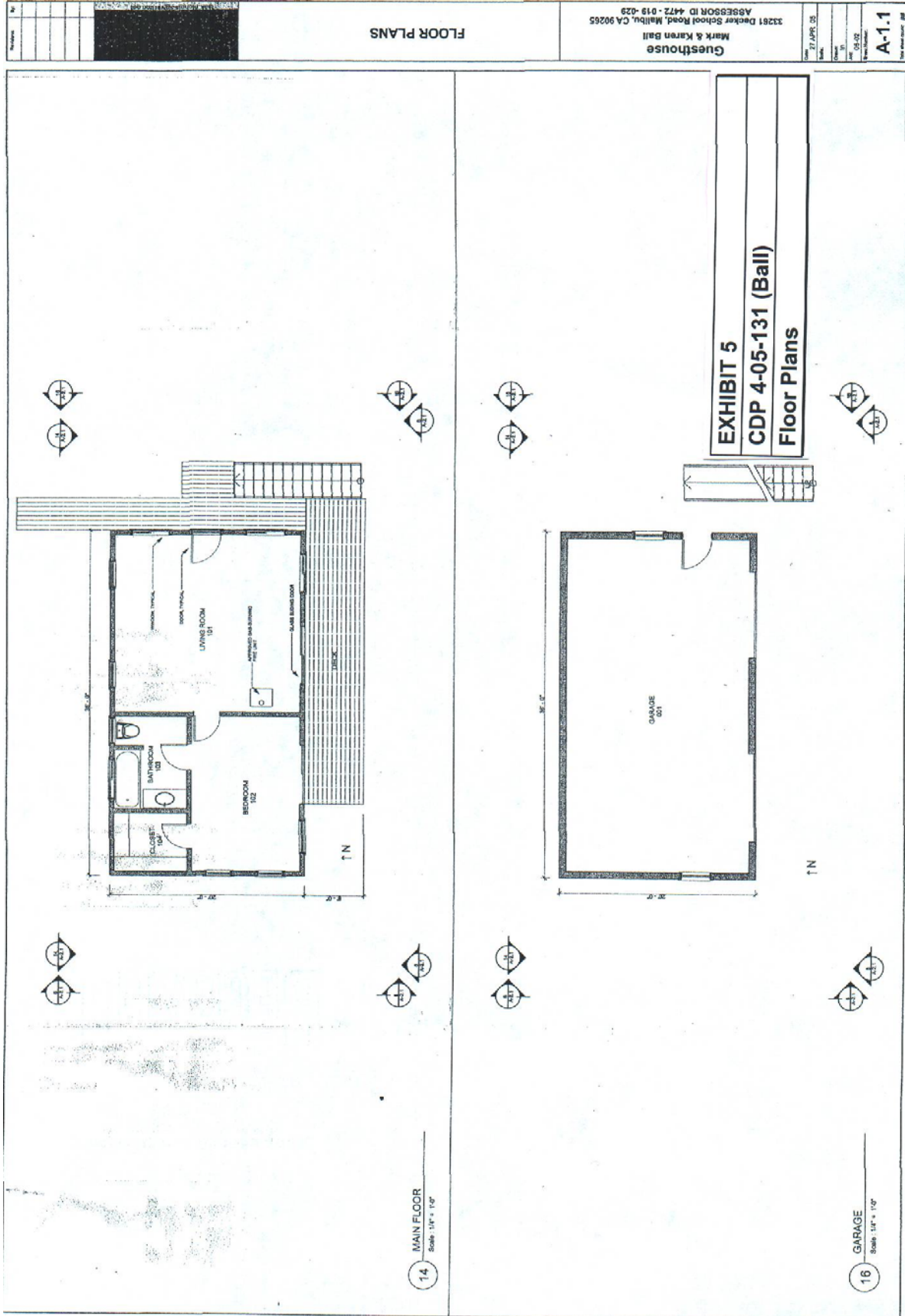
EXHIBIT 2

CDP 4-05-131 (Ball)

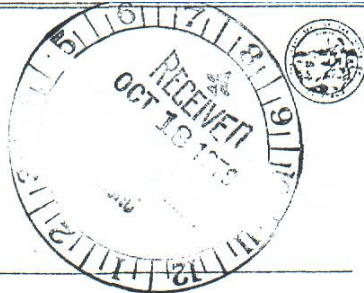
Parcel Map







MISSION
MISSION
107



COASTAL DEVELOPMENT PERMIT

Project: SF-79-5902

Applicant: Mark Ball

Address: 33062 Decker School Road, Malibu, CA 90265

☐ Emergency

☐ Standard

☒ Administrative

Location: 33261 Decker School Road

Malibu, CA 90265

Description: Construction of a 2-story, 3-bedroom, 4800 sq.
attached 2-car garage; 23' above AFG, and 146' above CFR on
parcel.

The development is subject to the following conditions imposed
by the California Coastal Act of 1976:

By _____

By _____

VR ⁱvr

II. The South Coast Commission finds that:

A. The proposed development, or as conditioned:

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

III. Whereas, at a public hearing, held on October 1, 1979 at Torrance by a unanimous ~~xx~~ vote permit application number SF-79-5902 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on

October 10, 197 9.

M. J. Carpenter
M. J. Carpenter
Executive Director

I, MARK BALL, permittee/agent, hereby acknowledge receipt of Permit Number SF-79-5902 and have accepted its contents.

Oct 17, 1979

Mark Ball

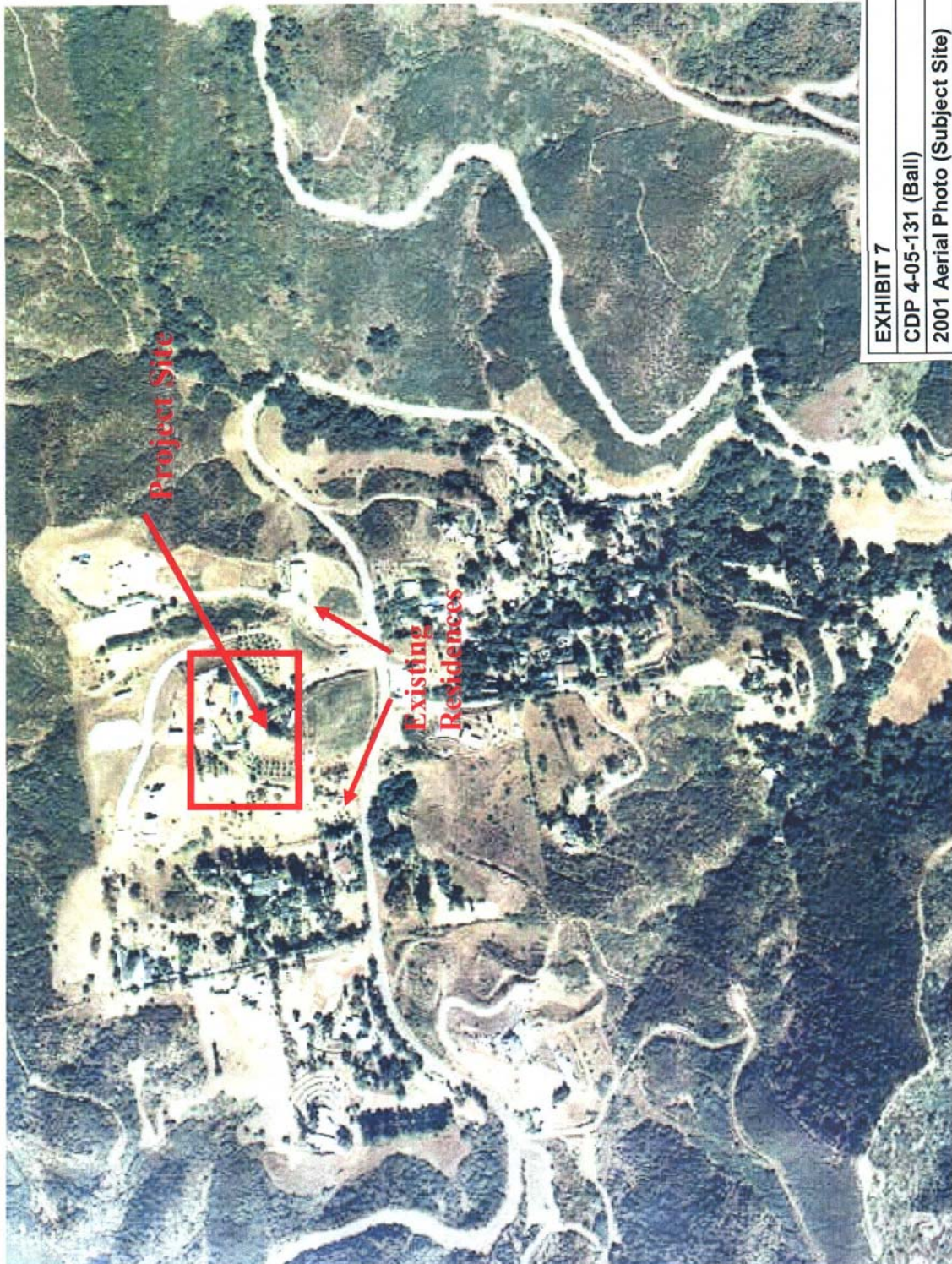


EXHIBIT 7

CDP 4-05-131 (Ball)

2001 Aerial Photo (Subject Site)